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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/633,264  | 07/31/2003  | Michael K. T. Lee    | 112-0127US          | 3390             |
| 29855   | 7590        | 06/14/2006           | EXAMINER            |                  |
| WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,<br>L.L.P.<br>20333 SH 249<br>SUITE 600<br>HOUSTON, TX 77070 |             |                      | TRAN, MICHAEL THANH |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2827                |                  |
| DATE MAILED: 06/14/2006   |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                   |  |
|------------------------------|--------------------------------------|-----------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/633,264 | <b>Applicant(s)</b><br>LEE ET AL. |  |
|                              | <b>Examiner</b><br>Michael t. Tran   | <b>Art Unit</b><br>2827           |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 30 day MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

  
**MICHAEL TRAN**  
**PRIMARY EXAMINER**

## DETAILED ACTION

1. In response to the Communications dated July 31, 2003, claims 1-20 are active in this application.

### ***Election of Species***

2. A telephone call was made to Keith Lutsch on June 2, 2006 to request an oral election to the below restriction requirement, but did not result in an election being made.

3. This application contains claims directed to the following patentably distinct species of the claimed invention: 1) Data preservation [claims 1-10 and 17-20; classified in class 365, subclass 228]; and 2) Signals [claims 11-16; classified in class 365, subclass 191]. These species reflect figures 4 and 5 of the present application.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the **cancellation** of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

#### ***Conclusion***

4. When responding to the Office action, Applicants are advised to provide the Examiner with line and page numbers of the application and/or references cited to assist the Examiner in the prosecution of this case.

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5. A shortened statutory period for response to this Office action is set to expire 30 days from the date of this communication. Failure to response within the period for response will cause the application to become abandoned (see **MPEP § 710.02(b)**).

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Michael T. Tran whose telephone number is (703) 308-4838. The Examiner can normally be reached on Monday-Thursday from 7:30-6:00 P.M.

7. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Michael T. Tran  
Art Unit 2818  
June 6, 2006

**MICHAEL TRAN**  
**PRIMARY EXAMINER**